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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,563	12/06/2000	Daniel J. Miller	MS1-635US	9508

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EXAMINER

CHEVALIER, ROBERT

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/731,563	Applicant(s) MILLER ET AL.	
	Examiner Bob Chevalier	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-37, 49-59 and 79-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 20-25, 27-35, 37, 49-56 and 79-81 is/are rejected.
- 7) ☒ Claim(s) 19, 26, 36 and 57-59 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 18, 20-25, 27-29, 32-35, 37, 49-56, and 79-81, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,768,499. Although the conflicting claims are not identical, and that the claimed language of the present Application is somewhat different from the language recited in the patented claims 1-17, however, they are not patentably distinct from each other because it is noted that it would have been obvious to one of ordinary skill in the art to recognize that the patented claims 1-17, would be able to perform the functions of the claimed limitations of the present Application since the limitations recited in the claimed invention of the present Application are also recited in the patented claims 1-17, including the feature of defining a first data structure that represents a user-defined multi-media editing project (See column 26, lines 15-16, of the Patent No. 6,768,499), the feature of providing a software-implemented matrix switch that is programmable to route multiple switch inputs to multiple switch outputs, at

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least two of the inputs being capable of competing for a single output during a common time period, the single output being configured to provide a data stream defined by the multi-media editing project (See column 26, lines 17-23, of the Patent No. 6,768,499), the feature of processing the first data structure to provide a second data structure that contains data that can be used to program the matrix switch so that multiple switch inputs are routed to multiple switch outputs (See column 26, lines 24-27, of Patent No. 6,768,499), the feature of operating on the second data structure so that no two inputs are routed to said single output during a common time period as specified in the present claims 18, 49, and 79. (See column 26, lines 28-30, of the Patent No. 6,768,499, and further, see the patented claim 17 of the Patent No. 6,768,499).

With regard to claim 20, the feature of the processing of the first data structure comprises configuring the matrix switch to that it receives at least one source stream at one of its inputs as specified thereof is present in the patented claim 2, of the Patent No. 6,768,499.

With regard to claims 21-22, the feature of configuring comprising building a collection of associated objects operably associated with the matrix switch and that are configured to process digital data to provide a source stream at one or more of the inputs, wherein at least some of the associated objects comprise filters as specified thereof is present in the patented claim 3, of the Patent No. 6,768,499.

With regard to claims 23, and 51, the feature of processing of the first data structure comprising providing at least one object configured to receive at least one output stream from the matrix switch, process the output stream to provide an input

stream, and provide the input stream to an input of the switch as specified thereof is present in the patented claim 4 of Patent No. 6,768,499.

With regard to claims 24, and 52, the feature of the object comprising a transition object that is configured to transition between at least one source stream and at least one other source stream as specified thereof is present in the patented claim 5 of Patent No. 6,768,499.

With regard to claims 25, and 53, the feature of the effect object that is configured to operate on a source stream to produce a different source stream as specified thereof is present in the patented claim 6 of the Patent No. 6,768,499.

With regard to claims 27, 54, and 81, the feature of the first data structure comprising defining a hierarchical tree structure as specified thereof is present in claim 7 of the Patent No. 6,768,499.

With regard to claim 28, the feature of the hierarchical tree structure comprising nodes that represent tracks, each track being associated with one or more data sources as specified thereof is present in the patented claim 8 of Patent No. 6,768,499.

With regard to claim 29, the feature of the data stream sources with which one or more of the tracks are associated comprising video data sources as specified thereof is present in the patented claim 14 of Patent No. 6,768,499.

With regard to claim 32, and 80, it is noted that all the features provided thereof are present in the patented claim 15 of Patent No. 6,768,499, including the feature of the processing of the first data structure to provide the second data structure comprising processing the first data structure to provide a grid structure, the grid structure

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containing multiple rows, individual rows representing inputs to the matrix switch and being associated with individual data stream sources, each row containing at least one value that is associated with an output associated with said single output of the matrix switch.

With regard to claims 33, 55-56, the feature of the operating on the second data structure comprising changing at least one value in at least one of the rows of the grid structure as specified thereof is present in the patented claim 16 of Patent No. 6,768,499.

With regard to claim 34, the feature of the processing of the first data structure comprising configuring the matrix switch so that it receives multiple source streams at multiple respective inputs at multiple times as specified in the present thereof is present in the patented claim 1 of the Patent No. 6,768,499.

With regard to claim 35, the feature of configuring comprising building one or more filter graphs that are individually configured to process digital data to provide multiple respective source streams, and associating one or more filter graphs with individual inputs of the matrix switch as specified thereof is present in the patented claims 2-3 of Patent No. 6,768,499.

With regard to claim 37, the feature of one or more computer-readable media having computer readable instructions thereon which, when executed by a computer, implement the method of claim 18 as specified thereof is present in the patented claim 17 of the Patent No. 6,768,499.

With regard to claim 50, the feature of the matrix switch having a single output that provides a data stream that represents the editing project as specified thereof is present in column 26, lines 21-23 of the Patent No. 6,768,499.

3. Claim 30-31, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,768,499 in view of Official Notice.

It is noted that the patented claim 14 of Patent No. 6,768,499 discloses a multimedia processing method that shows substantially the same limitations recited in claims 30-31, including the feature of the tracks being associated with one or more data stream sources as specified in the present claims 30-31. (See the patented claims 8, and 14, of Patent No. 6,768,499).

Although, It is noted that the patented claims 8, and 14, disclose that the tracks are associated with multimedia data stream such as video data stream, it is noted however, that the patented claims 8, and 14, fail to specifically disclose the feature of the tracks comprising audio data and video data stream sources as specified in the present claims 30-31.

Examiner takes Official Notice in that it is notoriously well known in the video recording/editing art to have a multimedia data stream including video/audio data stream wherein the tracks are associated with the video/audio data stream as specified in the present claims 30-31.

It would have been obvious to one skilled in the art to modify the patented claims 8, and 14, wherein the tracks provided thereof would be associated with data stream

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including video/audio data stream in the same conventional manner as is well known in the prior art. Examiner has taken Official Notice. The motivation is to better identify the video data by providing voice information over the video data during reproduction or displaying time as suggested in the prior art.

4. Claims 19, 26, 36, 57-59, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bob Chevalier whose telephone number is 703-305-4780. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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B. Chevalier
October 25, 2004.


ROBERT CHEVALIER
PRIMARY EXAMINER